



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

**EPA Region 5 Records Ctr.**



REPLY TO THE ATTENTION OF:

C-29A

To Whom It May Concern:

Re: Notice of Potential Liability  
Notice as to Availability of ADR Allocation Procedure  
Skinner Landfill Site  
West Chester, Ohio

You or your client are being sent this letter because U.S. EPA has determined that you are a potentially responsible party ("PRP") at the Skinner Landfill NPL Site (the "Site"), located in West Chester, Ohio. This determination is based upon information uncovered during an extensive investigation of records and witnesses pertaining to the Site. Although you may (or may not) previously have received a notice regarding the Site, the basis of this particular notice is certain waste which you generated and sent to the Chem Dyne site in Hamilton, Ohio, and its subsequent transshipment to the Skinner Landfill Site. To the extent that you or your client received a notice in the past for this Site, it was based upon evidence that U.S. EPA had obtained regarding your direct involvement with the Site; if you have not received a prior notice, it is because, at this time, U.S. EPA does not have any or does not have sufficient evidence of your direct disposal or direct arrangements for disposal at the Site. In either case, a detailed discussion of U.S. EPA's evidence with regard to the transshipment of your or your client's waste from the Chem Dyne site to the Skinner Landfill is contained in the enclosures to this letter.

Please note that this notice is not being provided pursuant to Section 122(e) of the Comprehensive Environmental, Response, Liability, and Compensation Act (CERCLA), 42 U.S.C. 9622(e) because the use of those procedures and the moratorium that those procedures entail are not appropriate for use at this Site at this time. The Site has been selected by U.S. EPA to implement the principles of alternative dispute resolution ("ADR") and, therefore, U.S. EPA feels that additional flexibility concerning PRP-financed work at the Site may be necessary.

If you did receive a prior notice, you were invited to participate in an ADR process. The first convening session in the ADR process for this Site was held on March 11, 1997 in Cincinnati, Ohio. The convening phase has now been completed, and a information-gathering

questionnaire regarding waste disposal has been prepared. An allocator, John M. Barkett of the law firm of Coll, Davidson, Carter, Smith, Salter & Barkett, P.A. of Miami, has also been hired.

If you did not receive a prior notice, it is because, at the time that the ADR process was convened, although U.S. EPA was certainly aware of the fact that Chem Dyne waste was transhipped to the Skinner Landfill, we had not completed our investigation of the parties whose waste we believe was transhipped. You are being given the earliest notice that U.S. EPA could give you, based upon its investigation.

U.S. EPA believes that the ADR allocation process is a cost-effective and timely means to determine who should be responsible for response costs at the Skinner site and for allocating those costs. Additionally, Daniel P. Dozier, of TLI Systems, Inc., the third-party neutral who served as the ADR convener, but who has since turned over the cost allocation duties to John Barkett, has concluded that the process developed is a reasonable one. Also included as enclosures to this letter are a copy of U.S. EPA guidance regarding the use of ADR, the ADR participation agreement, the ADR questionnaire, and the proposed ADR schedule. It should be noted that the enclosed ADR schedule will probably be modified, so that responses to the questionnaires are not due until August 27, 1997; the rest of the schedule probably will be modified accordingly. Any procedural questions as to the ADR allocation process should be directed to John Barkett at (305) 373-5200. If you or your client decide to participate in the ADR process, you should immediately begin searching for answers to the questions contained in the enclosed questionnaire.

By way of background as to the Skinner Landfill Site, in 1976, in response to a Site fire and reports of a black, oily liquid in a waste lagoon on the Site, the Ohio EPA investigated the Site. In 1982, the U.S. EPA conducted a limited investigation for purposes of scoring the Site for inclusion on the National Priorities List ("NPL"). This investigation detected volatile organic compounds on the Site in the groundwater southeast of the buried waste lagoon. Pursuant to §105 of CERCLA, U.S. EPA placed the Site on the NPL in September 1983.

In 1985, U.S. EPA conducted a Phase I Remedial Investigation, which included the sampling of groundwater, surface water, and soils at the Site. In 1989, U.S. EPA performed a Phase II Remedial Investigation to further investigate the Site groundwater, surface water, soils and sediments. The groundwater analytical data developed during the RI revealed the presence of "hazardous substances" as defined in §101(14) of CERCLA. The Phase II Remedial Investigation was completed in May 1991. The Feasibility Study was completed in April 1992. In August 1990, Ohio EPA closed the Site to all further land filling activities.

A Record of Decision for the Interim Action Operable Unit (consisting of Site fencing, the provision of alternate water supplies to potentially affected residents living near the Site who were using groundwater, and on-Site groundwater monitoring ) was signed by the Regional Administrator for Region V of the U.S. EPA on September 29, 1992. All activities required

under this ROD were completed by a group of PRPs (the "Respondents") as of September 29, 1993.

The ROD for the second and the final of the two operable units at the Site was signed by the Regional Administrator on June 4, 1993. This second operable unit addresses potential future migration of Site contaminants into the groundwater and limits the potential for direct exposure of Site contamination to humans. An Administrative Order on Consent for the Remedial Design ("RD") of the final ROD was entered in April 1994 with a sub-group of the original Respondents who completed work on the Interim Action Operable Unit. Work under this Order was completed in 1996. The final RD calls for the installation of a hazardous waste RCRA Subtitle C cap, and a groundwater collection system. The groundwater will be discharged to the local publicly owned treatment works.

U.S. EPA first began a search for potentially responsible parties in April 1983. The results of this investigation were later supplemented by information requests under CERCLA §104(e) in 1991 and 1994. In addition, U.S. EPA conducted administrative depositions in 1991 and 1994. Mrs. Elsa Morgan-Skinner, past and present owner and operator of the site, produced a large quantity of Site records at her deposition. Based on the information obtained through these efforts, as well as through the investigations and efforts of the Respondents, many additional PRPs have been identified. It is as a result of this work, and more specifically, the process described in the enclosures to this letter, that your company or client is a recipient of this letter.

Although U.S. EPA cannot force any party to take part in this ADR effort, we believe that it is in the best interest of U.S. EPA and all those receiving this letter that they do so. In the event that a recipient of this letter refuses to cooperate in this effort, however, U.S. EPA fully intends to explore the full range of its enforcement options, including, if necessary, the issuance of CERCLA §106 orders to compel these non-participating PRPs to undertake and finance the Remedial Action ("RA") required at the Site. U.S. EPA also fully intends in the future to seek reimbursement from the PRPs for the significant costs it incurred in undertaking and funding the RI/FS at the Site, and in conducting the PRP search, which are estimated at \$3.5 million as of September 30, 1995.

In addition, the Respondents have similar claims related to the work they performed on the Interim Action Operable Unit and in completing the RD. They have already begun to pursue those claims in contribution, in a lawsuit filed in federal district court in Cincinnati, Ohio, The Dow Chemical Company, et al. v. Acme Wrecking Co., Inc., et al., Civ. Action # C-1-97-0307 (S. Dist. Ohio, W. Div.) As part of this litigation, they have filed a motion for a case management order (CMO) which seeks to have the court mandate the use of the ADR procedure. A ruling on this motion is expected soon. For information on the status of the motion for the CMO and the contribution litigation in general, you may contact the Respondents' litigation counsel, Karl S. Bordeau of the law firm of Beveridge & Diamond, P.C. at (202) 789-6000.

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Any legal questions regarding this letter or the Skinner Landfill site generally should be directed to Associate Regional Counsel Sherry L. Estes, (312) 886-7164. Technical questions regarding site conditions or the site remedy should be directed to the Remedial Project Manager, Terry Roundtree at (312) 353-3236.

Sincerely,

A handwritten signature in black ink, appearing to read "Wendy Carney", with a long, sweeping horizontal line extending to the right.

Wendy Carney  
Branch Chief  
Remedial Response Branch # 1  
Region V, U.S. EPA

cc: Terry Roundtree, RPM  
Craig Melodia  
John M. Barkett  
Karl S. Bourdeau